

109TH CONGRESS
2D SESSION

H. R. 5749

To amend title 18, United States Code, to protect youth from exploitation by adults using the Internet, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2006

Mr. FOLEY (for himself and Mr. FITZPATRICK of Pennsylvania) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to protect youth from exploitation by adults using the Internet, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Stopping
5 Adults Facilitating the Exploitation of Today’s Youth Act
6 (SAFETY) of 2006”.

7 **SEC. 2. FINANCIAL FACILITATION OF ACCESS TO CHILD**
8 **PORNOGRAPHY.**

9 (a) OFFENSE.—Chapter 95 of title 18, United States
10 Code, is amended by adding at the end the following:

1 **“§ 1960A. Financial facilitation of access to child por-**
 2 **nography**

3 “Whoever knowingly conducts, or attempts or con-
 4 spires to conduct, a financial transaction (as defined in
 5 section 1956(c)) in or affecting interstate or foreign com-
 6 merce, knowing that such transaction will facilitate access
 7 to, or the possession of, child pornography (as defined in
 8 section 2256) shall be fined under this title or imprisoned
 9 not more than 20 years, or both.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
 11 at the beginning of chapter 95 of title 18, United States
 12 Code, is amended by adding at the end the following new
 13 item:

“1960A. Financial facilitation of access to child pornography.”.

14 **SEC. 3. CHILD EXPLOITATION ENTERPRISES.**

15 Section 2252A of title 18, United States Code, is
 16 amended by adding at the end the following:

17 “(g) CHILD EXPLOITATION ENTERPRISES.—

18 “(1) Whoever engages in a child exploitation
 19 enterprise shall be fined under this title and impris-
 20 oned for any term of years not less than 20 or for
 21 life.

22 “(2) A person engages in a child exploitation
 23 enterprise for the purposes of this section if the per-
 24 son violates section 1466A, 1470, or 1591, section
 25 1201 if the victim is a minor, or chapter 110 or 117,

1 as a part of a series of felony violations constituting
2 three or more separate incidents and commits those
3 offenses in concert with three or more other per-
4 sons.”.

5 **SEC. 4. INCREASED PENALTIES FOR REGISTERED SEX OF-**
6 **FENDERS.**

7 (a) OFFENSE.—Chapter 110 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 2260A. Increased penalties for registered sex of-**
11 **fenders**

12 “Whoever, being required by Federal or other law to
13 register as a sex offender, commits a felony offense involv-
14 ing a minor under section 1201, 1466A, 1470, or 1591,
15 or chapter 110 or 117 shall be fined under this title and
16 imprisoned 10 years, or both, in addition to the imprison-
17 ment imposed for the offense under that provision. The
18 sentence imposed under this section shall be consecutive
19 to any sentence imposed for the offense under that provi-
20 sion.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of chapter 110 of title 18, United States
23 Code, is amended by adding at the end the following new
24 item:

“2260A. Increased penalties for registered sex offenders.”.

1 **SEC. 5. INTERNET FACILITATION OF CHILD PORNOGRAPHY**
2 **AND EXPLOITATION OF CHILDREN.**

3 (a) OFFENSE.—Chapter 95 of title 18, United States
4 Code, is amended by adding at the end the following:

5 **“§ 1960B. Internet facilitation of child pornography**
6 **and exploitation of children**

7 “(a) OFFENSE.—Whoever, being an Internet content
8 hosting provider or email service provider, knowingly en-
9 gages in any conduct the provider knows or has reason
10 to believe facilitates access to, or the possession of, child
11 pornography (as defined in section 2256) shall be fined
12 under this title or imprisoned not more than 10 years, or
13 both.

14 “(b) DEFINITIONS.—As used in this section—

15 “(1) the term ‘Internet content hosting pro-
16 vider’ means a service that—

17 “(A) stores, through electromagnetic or
18 other means, electronic data, including the con-
19 tent of web pages, electronic mail, documents,
20 images, audio and video files, online discussion
21 boards, and weblogs; and

22 “(B) makes such data available via the
23 Internet

24 “(2) the term ‘email service provider’ means a
25 person that—

1 “(A) provides a service, using the Internet,
 2 for the transmission, receipt, storage, and re-
 3 trieval, by registered users, of electronic mail
 4 messages; and

5 “(B) receives the content of, and recipient
 6 list for, electronic mail messages that it trans-
 7 mits, receives, or stores for the person or entity
 8 procuring such services.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
 10 at the beginning of chapter 95 of title 18, United States
 11 Code, is amended by adding at the end the following new
 12 item:

 “1960B. Internet facilitation of child pornography and exploitation of children.”.

13 **SEC. 6. CHILD PORNOGRAPHY REPORTING.**

14 (a) CHILD PORNOGRAPHY REPORTING.—Section
 15 227(b)(4) of the Victims of Child Abuse Act of 1990 (42
 16 U.S.C. 13032(b)(4)) is amended to read as follows:

17 “(4) FAILURE TO REPORT.—

18 “(A) KNOWING FAILURE.—A provider of
 19 electronic communication services or remote
 20 computing services described in paragraph (1)
 21 who knowingly fails to make a report under
 22 that paragraph shall be fined—

23 “(i) in the case of an initial failure to
 24 make a report, not more than \$150,000;
 25 and

1 “(ii) in the case of any second or sub-
2 sequent failure to make a report, not more
3 than \$300,000.

4 “(B) NEGLIGENCE FAILURE.—A provider of
5 electronic communication services or remote
6 computing services described in paragraph (1)
7 who negligently fails to make a report under
8 that paragraph shall be subject to a civil pen-
9 alty of—

10 “(i) in the case of an initial failure to
11 make a report, not more than \$50,000;
12 and

13 “(ii) in the case of any second or sub-
14 sequent failure to make a report, not more
15 than \$100,000.

16 “(C) AUTHORITY.—For the purposes of
17 this paragraph, the Federal Communications
18 Commission—

19 “(i) may levy civil penalties under
20 subparagraph (B); and

21 “(ii) shall promulgate regulations, in
22 consultation with the Attorney General,
23 to—

24 “(I) effectuate the purposes of
25 subparagraph (B); and

1 “(II) provide for appropriate ad-
2 ministrative review of any civil pen-
3 alties levied under that subpara-
4 graph.”.

5 **SEC. 7. DECEPTION BY EMBEDDED WORDS OR IMAGES.**

6 (a) IN GENERAL.—Chapter 110 of title 18, United
7 States Code, is amended by inserting after section 225B
8 the following:

9 **“§ 2252C. Misleading words or digital images on the**
10 **Internet**

11 “(a) IN GENERAL.—Whoever knowingly embeds
12 words or digital images into the source code of a website
13 with the intent to deceive a person into viewing material
14 constituting obscenity shall be fined under this title and
15 imprisoned for not less than 2 years nor more than 10
16 years.

17 “(b) MINORS.—Whoever knowingly embeds words or
18 digital images into the source code of a website with the
19 intent to deceive a minor into viewing material harmful
20 to minors on the Internet shall be fined under this title
21 and imprisoned for not less than 5 years nor more than
22 20 years.

23 “(c) CONSTRUCTION.—For the purposes of this sec-
24 tion, a word or digital image that clearly indicates the sex-

1 ual content of the site, such as ‘sex’ or ‘porn’, is not mis-
 2 leading.

3 “(d) DEFINITIONS.—As used in this section—

4 “(1) the terms ‘material that is harmful to mi-
 5 nors’ and ‘sex’ have the meaning given such terms
 6 in section 2252B; and

7 “(2) the term ‘source code’ means the combina-
 8 tion of text and other characters comprising the con-
 9 tent, both viewable and nonviewable, of a web page,
 10 including any website publishing language, program-
 11 ming language, protocol or functional content, as
 12 well as any successor languages or protocols.”.

13 (b) TABLE OF SECTIONS.—The table of sections for
 14 chapter 110 of title 18, United States Code, is amended
 15 by inserting after the item relating to section 2252B the
 16 following:

“2252C. Misleading words or digital images on the Internet.”.

17 **SEC. 8. REQUIREMENT TO PLACE WARNING MARKS ON**
 18 **COMMERCIAL WEBSITES CONTAINING SEXU-**
 19 **ALLY EXPLICIT MATERIAL.**

20 (a) DEFINITIONS.—As used in this section—

21 (1) the term “Commission” means the Federal
 22 Trade Commission;

23 (2) the term “website” means any collection of
 24 material placed in a computer server-based file ar-
 25 chive so that it is publicly accessible, over the Inter-

1 net, using hypertext transfer protocol or any suc-
2 cessor protocol except that the term does not include
3 any collection of material where access to sexually
4 explicit material is restricted to a specific set of indi-
5 viduals through the provision of a password or
6 through another access restriction mechanism;

7 (3) the term “sexually explicit material” means
8 any material that depicts sexually explicit conduct
9 (as that term is defined in subsection (2)(A) of sec-
10 tion 2256 of title 18, United States Code), unless
11 the depiction constitutes a small and insignificant
12 part of the whole, the remainder of which is not pri-
13 marily devoted to sexual matters;

14 (4) the term “Internet” means the combination
15 of computer facilities and electromagnetic trans-
16 mission media, and related equipment and software,
17 comprising the interconnected worldwide network of
18 computer networks that employ the Transmission
19 Control Protocol/Internet Protocol or any successor
20 protocol to transmit information; and

21 (5) the term “Internet access service”—

22 (A) means a service that enables users to
23 access content, information, electronic mail, or
24 other services offered over the Internet, and
25 may also include access to proprietary content,

1 information, and other services as part of a
2 package of services offered to consumers; and

3 (B) does not include telecommunications
4 services.

5 (b) LABELING REQUIREMENT.—Except as provided
6 in subsection (d), no person who operates a website that
7 is primarily operated for commercial purposes, in or af-
8 fecting interstate or foreign commerce, may knowingly,
9 and with knowledge of the character of the material, place
10 on that website sexually explicit material, and fail—

11 (1) to include on each page of the website that
12 contains sexually explicit material, the marks and
13 notices prescribed by the Commission under sub-
14 section (c); or

15 (2) to ensure that the matter on the website
16 that is initially viewable, absent any further actions
17 by the viewer, does not include any sexually explicit
18 material.

19 (c) PRESCRIPTION OF MARKS AND NOTICES.—Not
20 later than 90 days after the date of enactment of this Act,
21 the Commission shall, in consultation with the Attorney
22 General, establish by regulation clearly identifiable marks
23 or notices to be included in the code, if technologically fea-
24 sible, or if not feasible on the pages, of websites that con-

tain sexually explicit material in order to inform the viewer of that fact and to facilitate the filtering of such pages.

(d) INAPPLICABILITY TO CARRIERS AND OTHER SERVICE PROVIDERS.—This section shall not apply to a person, to the extent that such person is—

(1) a telecommunications carrier engaged in the provision of a telecommunications service;

(2) a person engaged in the business of providing an Internet access service; or

(3) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the content of the communication, and such person's deletion of a particular communication or material made by another person in a manner consistent with any applicable law or regulation shall not constitute selection or alteration of the content of the communication.

(e) PENALTIES.—Whoever violates subsection (b) shall be fined under title 18, United States Code, imprisoned not more than 15 years, or both.

SEC. 9. RICO PREDICATES.

Section 1961(1) is amended—

1 (1) by inserting “1466A (relating to obscene
2 visual representation of the abuse of children),”
3 after “sections 1461–1465 (relating to obscene mat-
4 ter),”;

5 (2) by inserting “1960A (relating to financial
6 facilitation of access to child pornography), 1960B
7 (relating to Internet facilitation of child pornography
8 and exploitation of children),” after “section 1958
9 (relating to use of interstate commerce facilities in
10 the commission of murder-for-hire),”; and

11 (3) by inserting “2252A (relating to child por-
12 nography), 2260A (relating to increased penalties
13 for registered sex offenders),” before “sections
14 2312”.

15 **SEC. 10. MONEY LAUNDERING PREDICATE.**

16 Section 1956(c)(7)(D) of title 18, United States
17 Code, is amended—

18 (1) by inserting “1466A (relating to obscene
19 visual representation of the abuse of children),” be-
20 fore “section 1708”;

21 (2) “1960A (relating to financial facilitation of
22 access to child pornography), 1960B (relating to
23 Internet facilitation of child pornography and exploi-
24 tation of children),” before “section 2113”; and

1 (3) by inserting “2252A (relating to child por-
2 nography), 2260A (relating to increased penalties
3 for registered sex offenders),” before “section
4 2280”.

5 **SEC. 11. MASHA’S LAW.**

6 Section 2255 of title 18, United States Code, is
7 amended to read as follows:

8 “(a) Any person aggrieved by a violation of section
9 2241(c), 2242, 2251, 2251A, 2252, 2252A, 2260, 2421,
10 2422, or 2423 may in a civil action obtain appropriate
11 relief.

12 “(b) An action under this section is barred if the com-
13 plaint is filed more than 10 years after the right of action
14 accrues.”.

15 **SEC. 12. INCREASED PENALTIES FOR CERTAIN OFFENSES.**

16 Sections 2252(b)(1) and 2252A(b)(1) of title 18,
17 United States Code, are each amended—

18 (1) by striking “5 years” and inserting “10
19 years”; and

20 (2) by striking “20 years” and inserting “30
21 years”.

22 **SEC. 13. OFFICE ON SEXUAL VIOLENCE AND CRIMES**
23 **AGAINST CHILDREN.**

24 (a) ESTABLISHMENT.—There is established within
25 the Department of Justice, under the general authority

1 of the Attorney General, an Office on Sexual Violence and
2 Crimes against Children (hereinafter in this subtitle re-
3 ferred to as the “Office”).

4 (b) DIRECTOR.—The Office shall be headed by a Di-
5 rector who shall be appointed by the President. The Direc-
6 tor shall report to the Attorney General through the As-
7 sistant Attorney General for the Office of Justice Pro-
8 grams and shall have final authority for all grants, cooper-
9 ative agreements, and contracts awarded by the Office.
10 The Director shall not engage in any employment other
11 than that of serving as the Director, nor shall the Director
12 hold any office in, or act in any capacity for, any organiza-
13 tion, agency, or institution with which the Office makes
14 any contract or other arrangement.

15 (c) DUTIES AND FUNCTIONS.—The Office is author-
16 ized to—

17 (1) administer the standards for sex offender
18 registration and notification programs set forth in
19 this title;

20 (2) administer grant programs relating to sex
21 offender registration and notification authorized by
22 this title and other grant programs authorized by
23 this title as directed by the Attorney General;

24 (3) cooperate with and provide technical assist-
25 ance to States, units of local government, tribal gov-

1 ernments, and other public and private entities in-
2 volved in activities related to sex offender registra-
3 tion or notification or to other measures for the pro-
4 tection of children or other members of the public
5 from sexual abuse or exploitation; and

6 (4) perform such other functions as the Attor-
7 ney General may delegate.

8 **SEC. 14. ADDITIONAL PROSECUTORS FOR OFFENSES RE-**
9 **LATING TO THE SEXUAL EXPLOITATION OF**
10 **CHILDREN.**

11 (a) **ADDITIONAL PROSECUTORS.**—In fiscal year
12 2007, the Attorney General shall, subject to the avail-
13 ability of appropriations for such purpose, increase by not
14 less than 200 the number of attorneys in the United
15 States Attorneys’ offices to prosecute offenses relating to
16 the sexual exploitation of children.

17 (b) **DEFINITION.**—For purposes of this section, the
18 term “offenses relating to the sexual exploitation of chil-
19 dren” shall include any offense committed in violation
20 of—

21 (1) section 1201(g) of title 18, United States
22 Code;

23 (2) chapter 71 of title 18, United States Code,
24 involving an obscene visual depiction of a minor, or
25 transfer of obscene materials to a minor;

1 (3) section 1591 of title 18, United States
2 Code, involving a person who has not attained the
3 age of 18 years;

4 (4) chapter 109A of title 18, United States
5 Code, involving a sexual act or sexual contact with
6 a minor, or sexual abuse of a minor;

7 (5) chapter 110 of title 18, United States Code;
8 or

9 (6) chapter 117 of title 18, United States Code,
10 involving coercion or enticement of a minor, trans-
11 portation of a minor, or transmittal of information
12 about a minor.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Department of
15 Justice for fiscal year 2007 such sums as may be nec-
16 essary to carry out this section.

17 **SEC. 15. ADDITIONAL ICAC TASK FORCES.**

18 (a) ADDITIONAL TASK FORCES.—In fiscal year 2007,
19 the Administrator of the Office of Juvenile Justice and
20 Delinquency Prevention shall, subject to the availability of
21 appropriations for such purpose, increase by not less than
22 20 the number of Internet Crimes Against Children Task
23 Forces that are part of the Internet Crimes Against Chil-
24 dren Task Force Program authorized and funded under

1 title IV of the Juvenile Justice and Delinquency Preven-
2 tion Act of 1974 (42 U.S.C. 5771 et seq.).

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Administrator of
5 the Office of Juvenile Justice and Delinquency Prevention
6 for fiscal year 2007 such sums as may be necessary to
7 carry out this section.

8 **SEC. 16. GRANTS FOR CHILD SEXUAL ABUSE PREVENTION**
9 **PROGRAMS.**

10 (a) IN GENERAL.—The Attorney General shall, sub-
11 ject to the availability of appropriations, make grants to
12 States, units of local government, Indian tribes, and non-
13 profit organizations for purposes of establishing and main-
14 taining programs with respect to the prevention of sexual
15 offenses committed against minors.

16 (b) DEFINITION OF STATE.—For purposes of this
17 section, the term “State” means any State of the United
18 States, the District of Columbia, the Commonwealth of
19 Puerto Rico, the Virgin Islands, American Samoa, Guam,
20 and the Northern Mariana Islands.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to carry out this section
23 \$10,000,000 for each of the fiscal years 2007 through
24 2011.

1 **SEC. 17. CYBERSECURITY FORENSIC CAPABILITIES.**

2 Section 816(b)(1) of the USA PATRIOT Act (28
3 U.S.C. 509 note) is amended by striking “\$50,000,000”
4 and inserting “\$70,000,000”.

○